



Federal Communications Commission
Washington, D.C. 20554

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October 24, 1994

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

The Honorable Jon Kyl
Member, House of Representatives
4250 East Camelback Road
Suite 140-K
Phoenix, Arizona 85018
Attention: Mark Staudohar

Dear Congressman Kyl:

This letter responds to your correspondence on behalf of Steve Baker regarding charges on his/her telephone bill and relating to information services provided on 800 numbers. Your letter, as well as the complaint of your constituent, has been referred to the Enforcement Division of the Common Carrier Bureau for review. The Enforcement Division will communicate with your constituent upon completion of its review.

The Telephone Disclosure and Dispute Resolution Act (TDDRA) was enacted by Congress in 1992 and required both the Federal Communications Commission and the Federal Trade Commission (FTC) to adopt rules governing the provision of pay-per-call services. Under the TDDRA, the FCC has jurisdiction over the telecommunications carriers involved in the transmission and billing of the telephone calls, while the Federal Trade Commission has jurisdiction over the information service companies themselves.

The TDDRA generally required pay-per-call services to be provided on 900 telephone numbers and generally prohibited the provision of these services on 800 numbers, except in instances where the caller has entered into a presubscription agreement or comparable arrangement with the information service provider. Pursuant to the Commission's rules, which became effective on September 24, 1993, a presubscription agreement entails a formal contractual understanding whereby the consumer is provided clearly and conspicuously all terms and conditions associated with the use of the service and affirmatively agrees to abide by them.

The Commission has received numerous complaints similar to those described by your constituent. These complaints are processed by the Enforcement Division of the Common Carrier Bureau by serving a copy of the complaint upon the telecommunication carriers involved, who must generally respond in writing within 30 days. Beyond reviewing these

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complaints and pursuing appropriate action to resolve them, the Commission has undertaken several efforts. First, Common Carrier Bureau staff has met with the carriers that provide the billing service for calls to 800 numbers as well as interexchange carriers who provide the 800 number transport to emphasize their obligations under the TDDRA and the rules of the Commission. Secondly, because the increase in the number of complaints has been so significant, we have started an investigation of these practices, with special focus on whether any companies have attempted to evade or violate our rules. Additionally, as part of the effort to make clear the carriers' responsibilities under the law, the Common Carrier Bureau has recently issued a ruling holding that the information provider's receipt of the originating telephone number, a practice that was serving as the premise of some charges, does not in itself constitute a presubscription agreement.

Moreover, on August 2, 1994, the Commission instituted a Notice of Proposed Rulemaking seeking to strengthen Commission rules to prevent abusive and unlawful practices under the TDDRA. Specifically, the Commission has sought public comment on a proposal to require that a presubscription agreement be established only with a legally competent individual and executed in writing, and that common carriers obtain evidence of the written agreement before issuing a telephone bill that contains charges for presubscribed information services. Under the proposed rules, these telephone bills could be addressed only to the individual who actually entered into the presubscription arrangement, not to the person or company whose telephone was used to place the call. The Commission has tentatively concluded that this and other proposed changes would significantly assist in eliminating the source of many consumer complaints. Enclosed is a summary of the Commission's action in this regard.

We appreciate receiving your correspondence. Please call upon us if we can provide any additional information.

Sincerely,



Kathleen M.H. Wallman
Chief
Common Carrier Bureau

Enclosure

JON KYL

4TH DISTRICT, ARIZONA

ARMED SERVICES COMMITTEE

SUBCOMMITTEES

OVERSIGHT AND INVESTIGATIONS

RANKING MEMBER

MILITARY FORCES AND PERSONNEL

GOVERNMENT OPERATIONS COMMITTEE

SUBCOMMITTEE

LEGISLATION AND NATIONAL SECURITY

COMMITTEE ON STANDARDS

OF OFFICIAL CONDUCT

DEPUTY REPUBLICAN WHIP

Congress of the United States

House of Representatives

Washington, DC 20515-0304

September 1, 1994

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cc-92

4492

Ms. Judith Harris
Director of Legislative Affairs
Federal Communications Commission
1919 M Street
Room 808
Washington, DC 20554

Dear Ms. Harris:

The attached communication is sent for your consideration. Please investigate the statements contained therein and forward me the necessary information for reply to my constituent, Steve Baker.

Please reply to the attention of Mark Stauder in my Phoenix District Office. Thank you for your assistance in this matter.

Sincerely,



JON KYL
Member of Congress

JK:mps

Enclosure

August 31, 1994

Federal Communications Commission
2025 M St. NW
Washington, DC 20554

ATTN: Mr. Michael Hennigan

Mr. Hennigan:

There is a serious problem afoot that is affecting our nation's youth. The purpose of this letter is to identify the problem, and to offer possible solutions.

Specifically, the problem is that children may dial a 1-800 number, and without verification of any type, gain access to "Adult" type material, specifically, that which is known as "Phone Sex". The scheme works like this: A child dials one of the 1-800 numbers, and is asked their name, etc, and either must give their date of birth by voice, or by keying in the date sequence using the touch tone keys on the telephone. Either of these are recognized by a computer, and there is no way to actually confirm that the voice is that of a child, nor is there verification that the child is keying in truthful information, just that if the numbers "match", the child is granted access. The child is then either given, or selects a special "access code", which opens up all of the "pay per call" services, including numerous phone sex lines, several of which are 1-800 themselves, although there is a \$4.00 per minute charge for the "service".

I am not, by any means, against the phone sex service in general. While I don't personally agree with the service, I feel it would be incorrect for me to deprive that service from those that find that sort of thing necessary. I am, however vehemently opposed to the indiscriminate, irresponsible furnishing of this information to children, and feel that the procedure is totally inadequate to prevent a child from gaining access. Furthermore, I am totally against these companies using "direct dial" type lines, and 1-800 numbers which I cannot "block" from my phone, without severely limiting my own telephone service, (ie, the only way to block these calls from being made, is to totally remove all long distance access from my telephone.) I feel that by utilizing such a scheme as described above, these companies have effectively usurped my right to block these services from my telephone. Furthermore, I feel that my duty as a parent to shield my child from such material has been effectively circumvented, and that I have been deprived of my right as a responsible parent to do so. I have been told directly an agent for one of the companies, that the reason they went to such a scheme, was "Well, we have to do it this way, people were having the 1-900 and 1-976 numbers blocked off their phone!". This is exactly what I as a parent SHOULD have the right and capability to do!

Possible solutions could entail, either a complete, "hard copy" of a drivers license, or some other verification of person, and/or date of birth before the service is accessed, or, possibly a better alternative, would to require ALL "pay per call" type services to utilize the

1-976/1-900 numbering scheme. I realize the first solution would require the customer to wait a period of days while the age verification would be obtained, entered into some sort of computer, and filed, effectively losing the "spur of the moment" customer, but it is my opinion that if a person is going to use such services, the first contact is something which one is probably going to think about for a period of time, anyway.

The second, and in my opinion somewhat more effective means of controlling the situation would be a small burden on all pay per call businesses, but by utilizing the 1-900/1-976 exchanges, each individual company can set the price for their service. I would not have a problem with the initial contact, information, and/or age verification process being allowed to utilize 1-800 numbers, just the actual "phone sex" product itself, I feel should be relegated to the obvious pay per call (and "block-able") status of the 1-900/1-976 numbers.

I would like to point out, that either solution, while requiring a bit more action on all parties behalf, would be a small price to pay to keep this material out of the reach of our children, and to allow parents the control that they need today.

I would appreciate being kept apprised of the situation, and what, if anything is being done by the FCC to alleviate this problem.

Thank You
Steven K. Baker
3333 W. Dunlap #120
Phoenix, Az 85051
(602) 841-7341

FACSIMILE COVER PAGE

To: Jon Kyle US Representative
Time: 08:54:48
Pages (including cover): 1

From: Steve Baker
Date: 8/31/94

Mr. Kyle,

Sorry, forgot to include this cover page with the FAX that you just received.

A bit in the way of explanation, first, I thank you for your response, but apparently, you misunderstood the problem. The letter further explains the problem that I have, and offers a couple of suggestions to alleviate it. Perhaps, you can use your influence to help push this through, or that of a few of your friends.

Thank you for your attention into the matter.

Steve